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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Report on the human rights situation in the Palestinian territories occupied since 1967, submitted by Mr. René Felber, Special Rapporteur, pursuant to Commission on Human Rights resolution 1993/ A

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INTRODUCTION

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/2 A, dated 19 February 1993 and entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

2. In paragraph 4 of resolution 1993/2 A, the Commission decided to appoint a special rapporteur with the following mandate:

> "(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;
>
> (b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;
>
> (c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories."

3. Further to consultations with the Bureau, on 13 September 1993 the Chairman of the Commission on Human Rights appointed Mr. René Felber (Switzerland) as Special Rapporteur.

4. At its 44th plenary meeting, held on 28 July 1993, the Economic and Social Council adopted decision 1993/253, in which it approved Commission resolution 1993/2 A.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

5. Once his mandate was confirmed, the Special Rapporteur set out to examine the many documents prepared by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, specialized agencies such the International Labour Office (ILO) and the World Health Organization (WHO), and non-governmental organizations, particularly reports by the International Commission of Jurists (ICJ) and Amnesty International.

6. The announcement in late August 1993 of a forthcoming agreement between the Israeli Government and the Palestine Liberation Organization (PLO) raised the hopes of the entire international community and the signature of the Declaration of Principles on Interim Self-Government Arrangements in Washington on 13 September 1993 prompted many Governments to express their support for the peace process thus embarked on and also brought promises of material help for the territories acceding to autonomy.

7. Needless to say, these major political developments could not fail to influence the Special Rapporteur's approach to his work. The political process initiated between the PLO and Israel was not to be hampered by unilaterally condemning one side or the other, thus providing fuel for Israeli

and Palestinian opponents of the project. It was clear that only Jericho and the Gaza Strip were covered by the arrangements of 13 September 1993 and that the remainder of the occupied territories would see no change in status. Moreover, the agreement would not actually enter into force until after special negotiations were held between the signatories.

8. Accordingly, these were the new circumstances the Special Rapporteur had to take into account, but they did not make him, any more than the persons with whom he spoke, think that he should give up his mandate.

9. The Special Rapporteur therefore contacted the permanent representatives of the countries directly concerned, politically and geographically, with the situation in Palestine. All were agreed on the need to start on the work connected with his mandate.

10. The same questions that stemmed from the new circumstances were raised in the course of talks in Geneva with the representatives of the non-governmental organizations, Amnesty International and the International Commission of Jurists, as well as with a delegation of the International Committee of the Red Cross at the Committee's headquarters. Everyone concluded that the mandate should be continued, while bearing in mind the new political developments.

11. To discharge his mandate, it was essential for the Special Rapporteur to be able to visit Palestine in person and, consequently, for him to obtain the authorization of the Israeli Government to do so. He thought it pointless simply to visit the neighbouring countries, Jordan, Egypt or the Syrian Arab Republic, and to redo the work of conducting inquiries and gathering evidence, something the members of the General Assembly's Special Committee have been doing with remarkable perseverance over the past 25 years. Their work is no sense to be challenged; it is set out in reports which remain a highly important source of information.

12. On 17 September 1993, the Special Rapporteur wrote to Mr. Shimon Peres, Israel's Minister for Foreign Affairs, to inform him of his point of view, his personal support for the peace process, and the need to fulfil his mandate. He emphasized the importance and the dimension of human rights throughout Palestine, including the parts of Palestine that were to become autonomous in the near future.

13. On 6 October 1993, the Special Rapporteur reminded the Minister of that letter when he was able to approach him briefly in Lisbon. He said that he was ready to meet him as soon as possible during one of his forthcoming visits to Europe.

14. In his reply of 27 October 1993, Mr. Peres informed the Special Rapporteur that he was ready to meet him in Europe in the near future. It was decided later that an opportunity would be afforded when an Israeli delegation came to the Davos Symposium in late January 1994.

15. In fact, the Special Rapporteur still had no authorization or invitation to go to Israel and the occupied territories in order to discharge his mandate.

16. On 9 December 1993, the Special Rapporteur, accompanied by the Special Procedures Chief of the Centre for Human Rights, was received by Mr. Yasser Arafat in Tunis. The head of the PLO, while acknowledging of course the obvious change at the political level, also called for the Special Rapporteur's mandate to be maintained. He spoke of the arrangements he had made for respect for human rights in the future autonomous regions.

17. Lastly, in the last week of December, Ambassador Itzhak Lior, Permanent Representative of Israel to the International Organizations in Geneva, telephoned the Special Rapporteur and told him that Mr. Shimon Peres, Minister for Foreign Affairs, was inviting him personally to go to Jerusalem, where he would be free to visit the occupied territories.

18. Early in the new year, weighing up the fact that a possible visit could only be a short one if it was to be made before the start of the session of the Commission on Human Rights, the Special Rapporteur quickly evaluated the circumstances and concluded that the Israeli offer should be taken up promptly. Mr. Ibrahima Fall, Assistant-Secretary-General for Human Rights, encouraged that view. The visit was organized in a few days and the Special Rapporteur arrived in Jerusalem on 18 January 1994, together with a staff member of the Centre for Human Rights and a United Nations interpreter.

19. The Special Rapporteur and his team, accommodated in Jerusalem, had the logistical support of the United Nations Truce Supervision Organization (UNTSO), whose headquarters was made available to them throughout their stay, together with two vehicles and two security guards who also acted as drivers. It was thus possible to arrange the programme flexibly.

20. It is important to emphasize that the Israeli Ministry of Foreign Affairs, except for talks with representatives of the Israeli authorities, played absolutely no part in organizing the Special Rapporteur's stay and never required him to be accompanied by members of the Israeli forces. He was therefore the first person with an official mandate from the Commission on Human Rights to be able to visit the occupied territories and talk freely with persons he had contacted in advance.

21. After being welcomed by Ambassador Johanan Bein, Deputy Director-General of the Ministry of Foreign Affairs and by Mrs. Erella Hadar, Director of the Ministry's Human Rights Department, the Special Rapporteur was received in Tel Aviv on 19 January by Colonel Ahaz Ben-Ari, who is head of the International Law Section of the military judicial authorities and in charge of monitoring application of the law in the occupied territories. The Israeli view that making the inhabitants of the occupied territories subject to Israeli military law was thus amply explained to the Special Rapporteur.

22. The Special Rapporteur continued his visit in Tel Aviv with talks with General Freddy Zach, Deputy Coordinator of the Civilian Administration in the territory. From him, too, the Special Rapporteur heard a general statement about the problems of the Administration and the role that the army plays in it, as well as a brief outline of what is to happen after Gaza and Jericho become autonomous. Both persons interviewed were very receptive to his questions and their answers were very comprehensive and detailed.

23. On the same day, the Special Rapporteur talked with Mr. Yossi Beilin, the Deputy Minister for Foreign Affairs, in Jerusalem. Mr. Beilin spoke of the Israeli Government's readiness to bring the negotiations to a successful conclusion, saying that the tension between the occupying troops and the Palestinian population was a clear sign that an occupier, regardless of the reasons advanced to justify his presence, would never be anything but an intruder and even an enemy, and that the Middle East stood in need of peace and security.

24. The second political interview took place on Thursday, 20 January 1994, with Mr. Shimon Peres, Minister for Foreign Affairs. The major interest of this meeting lay in the view of the whole region's future, as conceived by Mr. Peres, who pointed to the Middle East's development potential and the need to assign less funds to the army and set them aside for investment that will foster development.

25. Still on 20 January, the Special Rapporteur visited Ramallah to meet representatives of six Palestinian non-governmental organizations who were joined by a representative of B'tselem an Israeli non-governmental organization. The main points raised in the course of the talks were often identical to those raised in the reports by the Special Committee.

26. Above all, the Special Rapporteur raised the problem of political prisoners (detained in Israel) and military decrees, the problem of the Palestinians' right to ownership, confiscation of land, the serious issue of penalties or steps taken against Palestinians being commensurate with the offence committed, and also the question of sealing houses or rooms.

27. The question which causes most concern with regard to the future is still the burning issue of the existence of Israeli settlements in the Palestinian territories.

28. The Special Rapporteur also met Mrs. Hanan Ashrawi, who is to deal personally with human rights questions in Palestine and will shortly set up a committee. All the Palestinians with whom the Special Rapporteur spoke expressed the hope that the Special Rapporteur's mandate would be continued and that he would also visit the territories of the Gaza Strip and Jericho after they become autonomous.

29. The Special Rapporteur spent Friday, 21 January 1994 visiting Gaza. With the help of the officers of UNTSO based in Gaza, he passed through the Israeli military control points to reach the town of Gaza, which he toured with the local representative of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

30. It is necessary to have visited Gaza in order to appreciate exactly what an occupation means and to get a very clear sense of the tension existing in the town and throughout the surrounding territory. That tension is naturally felt by all the representatives of the international and charitable organizations working in the region. A certain weariness was particularly evident in the pessimistic comments of Mr. Raji Sourani, Director of the Gaza Centre for Rights and the Law, who met the Special Rapporteur in Gaza to tell him of his concerns.

31. Quite clearly, a longer visit would permit a more detailed study of the issues raised. Accordingly, the Special Rapporteur hopes to be able to organize a longer stay in Palestine to obtain further specific information and also to put these questions in person to the Israeli authorities.

II. MAJOR CONCERNS REGARDING THE HUMAN RIGHTS SITUATION SINCE SEPTEMBER 1993

32. The following paragraphs contain a brief summary of the main concerns regarding the observance of human rights in the occupied Palestinian territories since the signing of the Declaration of Principles on Interim Self-Government Arrangements on 13 September 1993, as explained to the Special Rapporteur.

33. These questions were discussed with the representatives of the Israeli authorities and with Palestinians with whom the Special Rapporteur spoke during his recent mission. They will continue to receive his attention when he undertakes a more detailed analysis of the problems involved.

Observance of the right to life and physical integrity

34. The number of incidents resulting in the loss of Palestinian and Israeli lives in the occupied territories has not declined since the signing of the above-mentioned agreement.

35. The Palestinians killed by Israeli forces in the occupied territories since September 1993 are thought to have been the victims of extrajudicial executions or of the use of unnecessary force out of proportion to the circumstances. This loss of human life is said to have been caused by soldiers, the frontier police and infiltration units while making arrests, at road blocks or checkpoints, during exchanges of fire with the army, or in the course of attacks on Israeli soldiers or civilians. According to the information available to the Special Rapporteur, 45 Palestinians died in this way between 13 September and 31 December 1993.

36. The Israelis killed by Palestinians are reported to have been shot, stabbed or run over by vehicles. Some of them are said to have died in road accidents after stones had been thrown at their vehicles. Vehicles have also been loaded with explosives for suicide operations. A number of Israeli soldiers and civilians are also reported to have been deliberately killed after being taken prisoner. Organizations such as Hamas (Islamic resistance movement), the Islamic Jihad, the Popular Front for the Liberation of Palestine (PFLP) and the Democratic Front for the Liberation of Palestine (DFLP) are reported to have claimed responsibility for a number of these murders. More than 20 Israelis have died in this way since September 1993.

37. Since the signing of the September agreement, there have been further reports of Palestinians being killed by other Palestinians as a result of interfactional disputes or because they were suspected of collaborating with the Israeli authorities, or because of "moral offences" linked with drug trafficking. Thirty-three such cases were reported between 13 September and 31 December 1993.

38. Concerns regarding the torture and ill-treatment of Palestinians being held in detention were expressed by a number of informants. Most of the

reports concerned persons subjected to interrogation. All allegations of torture and ill-treatment should be rapidly and thoroughly investigated by independent judicial bodies and the persons identified as responsible prosecuted. Interrogation guidelines should be consistent with the absolute prohibition of the use of torture or ill-treatment.

Acts of violence

39. The Special Rapporteur is particularly concerned by the violence among opponents of the peace agreement on both sides, particularly members of the Hamas movement and Israeli settlers. Although it is difficult to ascertain who triggered the wave of violence, reports received by the Special Rapporteur suggest that it was started by members of the Hamas movement when the agreement was announced and involved mainly the use of incendiary bombs. This is said to have provoked a violent reaction from settlers, who are reported to have burned tires to block roads. They are also reported to have attacked Palestinian houses and to have damaged or destroyed vehicles, as well as beating up civilians in the street and firing shots. The Special Rapporteur was informed that the rules applied by settlers concerning the use of firearms are less stringent than those enforced in the army.

40. Both Israeli and Palestinian authorities should, as a matter of priority, take measures to contain this violence, which may pose the most serious threat to the peace process. The Israeli authorities in particular should ensure that the army exercises restraint in responding to outbreaks of violence. It was stated repeatedly that the army did not intervene to prevent such outbreaks and even that it protected the settlers involved. Given the new situation, the extremely complex question of settlements and the behaviour of their inhabitants should be examined carefully. The Palestinian police to be deployed in the autonomous areas should also be on the alert for such incidents and intervene to prevent them. The Special Rapporteur noted with concern a number of reports of an increase in the quantities of weapons and munitions being smuggled into the territories.

Situation of prisoners

41. The Special Rapporteur was informed that 617 Palestinian detainees had been released immediately following the signing of the agreement. A second group of 101 individuals was reported to have been released at the beginning of 1994. The Special Rapporteur also learnt that about 11,700 persons remained in prison in the occupied territories and in Israel, 4,500 of them in central prisons and the remainder in military prison camps. During his recent mission, the Special Rapporteur was informed that the conditions of detention had not improved significantly, despite the promises made by the Israeli prison authorities following the reported strike by more than 5,000 prisoners at the end of 1992. The practice of placing prisoners in solitary confinement is reported to have continued. Special concern was expressed regarding the access of Palestinian doctors to prisoners in need of urgent medical care.

42. In view of the new climate of understanding, it is essential to review the situation of all Palestinian prisoners and expedite their release. One priority should be the release of all political detainees accused or found guilty of non-violent political offences and of persons imprisoned without a fair trial, particularly those tried by military tribunals before the introduction of the right of appeal. In addition, all persons under

administrative detention - 356 at the end of 1993 - should be released if they did not participate in acts of violence. Cases of prisoners who cannot be released and did not receive a fair trial should be reviewed by the courts.

Demolition of houses

43. The totally arbitrary demolition of houses, very often by way of collective punishment, has long been a major source of concern. The Special Rapporteur was informed that this practice had declined significantly since the signing of the agreement. A number of houses were reported to have been destroyed or damaged, however, during raids in search of armed men. The sealing of houses or accommodation belonging to persons suspected of security offences would seem to have continued.

Confiscation of land and expansion of settlements

44. The Special Rapporteur was informed that the Israeli authorities customarily confiscated an average of 2,000 to 3,000 dunums of land each month before the signing of the September 1993 agreement and that, since October 1993, 17,000 dunums of land had been confiscated, seven times more than before. He was also informed that one of the major problems of the Arab population in the territories was the registration of land.

III. PRELIMINARY CONCLUSIONS

45. In examining the human rights situation in the occupied Palestinian territories, account must be taken of a basic factor referred to by most of the persons with whom the Special Rapporteur spoke during his mission, both Palestinian and Israeli, namely, the continued decline of the standard of living during more than 25 years of occupation. This concern must be a main focus of efforts to improve the human rights situation in the occupied Palestinian territories. During his conversation with the Special Rapporteur, the Israeli Minister for Foreign Affairs said that raising the standard of living should be the top priority. Mrs. Hanan Ashrawi also emphasized this aspect by stressing the interdependence of the economic development of the territories and the enjoyment of human rights by their inhabitants.

46. Nevertheless, this observation can in no way absolve the Israeli Government from applying all the international principles of human rights and humanitarian law espoused by the State of Israel, as well as the relevant principles of customary law. In addition, these principles should also be observed by the Palestinians, regardless of the fact that they have not formally subscribed to the treaties in question.

47. For the reasons given in section I, this report is only of a preliminary nature and is inevitably incomplete in that the Special Rapporteur did not have time to conduct more extensive first hand inquiries on the spot. The Commission will appreciate the fact that, despite the severe constraints which circumstances imposed on him, he has endeavoured to seize every opportunity that presented itself in forming his opinion. The Special Rapporteur, in accordance with the wishes expressed by all the Palestinians with whom he spoke, is ready to continue his work and to visit the territories at the earliest opportunity, taking account also of current political developments.